

PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 04-4080

IN RE: OWENS CORNING, a Delaware Corporation

CREDIT SUISSE FIRST BOSTON, as Agent for the
prepetition bank lenders,

Appellant

On Appeal from the United States District Court
for the District of Delaware
(D.C. Civil Action No. 00-cv-03837)
District Judge: Honorable John P. Fullam

Argued February 7, 2005

Before: ROTH, AMBRO and FUENTES, Circuit Judges

(Opinion filed: August 15, 2005)

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ORDER AMENDING PUBLISHED OPINION

AMBRO, *Circuit Judge*

IT IS NOW ORDERED that the published Opinion in the above case filed August 15, 2005, be amended as follows:

(1) In the sixth line in the second column of 419 F.3d at 206 (the last line of the carryover paragraph), delete “904” and in its place put “at 907” (thus, the cite should read “61 S.Ct. at 907.”).

(2) At the end of note 12 on page 207, add the following new paragraph:

A case from our Court – *In re Pittsburgh Rys. Co.*, 155 F.2d 477 (3d Cir. 1946), *cert. denied sub nom. Phila. Co. v. City of Pittsburgh*, 329 U.S. 731 (1946)

– cited *Stone*, *id.* at 484-85 n.15, in granting the request of the City of Pittsburgh to exercise bankruptcy jurisdiction over non-debtor companies controlled by the debtor Pittsburgh Railways Company. While guided by the practical need to “strip[] off” corporate “cloak[s],” *id.* at 484, in reorganizing Pittsburgh’s transportation system, our Court pointed out that “[t]he reorganization court cannot indefinitely be called upon to provide . . . unification,” *id.* at 481. In so doing, it emphasized that “we are in no way passing upon the fairness of any plan [of reorganization].” *Id.* at 485; *see also id.* at 481.

(3) In the sixth line of the first full paragraph at page 207, add “*Corp.*” after “*Ouimet*” and before “,”.

(4) In the seventh line of the first full paragraph at page 207, add “, *cert. denied*, 464 U.S. 961 (1983)” after “(1st Cir. 1983)” and before “;” (thus, the combined changes in (2) above and this (3) should cause the cite to read: “*Pension Benefit Guar. Corp. v. Ouimet Corp.*, 711 F.2d 1085, 1092-93 (1st Cir. 1983), *cert. denied*, 464 U.S. 961 (1983)”).

(5) In the tenth line of the first full paragraph at page 207, delete “252” and in its place put “248” (thus, the cite should read: “935 F.2d at 248”).

(6) In the next-to-last line of the first full paragraph at page 207, delete “1106-07” and in its place put “1105-07” (thus, the cite should read: “31 F.3d 1102, 1105-07 (11th Cir. 1994)”).

(7) In the second and third lines of the second column at page 207, delete “*In re Giller*, 962 F.2d at 798;” and add “*Corp.*” after “*Inv.*” and before the “,” (thus, the cite should read: “*Accord In Re Gulfco Inv. Corp.*, 593 F.2d at 928-29.”).

(8) In the next-to-last line of the carryover paragraph in the second column at page 207, delete “1108” and in its place put “1107-08” (thus, the cite should read, “31 F.3d at 1107-08.”).

(9) In note 13 at page 208: (a) in the ninth line, delete “-77” after “275” and before “;”; (b) in the tenth line, add “*Inc.*,” after “,” and before “115”; (c) in the fourteenth line, add “*In re Bonham*, 229 F.3d at 769-71;” after “*e.g.*,” and before “*In re Baker*”; (d) in the fifteenth line, delete “*Financial Services*” and put in its place “*Fin. Servs.*”; (e) in the sixteenth and seventeenth lines, delete “*Brothers*” in the three places it appears and in its place put “*Bros.*”; and (f) in the nineteenth line, delete “*In re Tureaud*, 59 B.R. at 977-78;”.

- (10) In the fourteenth line from the bottom of the second column in note 14 at page 208, add “judicial” after “the” and before “power”.
- (11) In the fourth line from the bottom of the second column in note 14 at page 208, change “The” to “[T]he” after “(“ and before “power”.
- (12) In the last sentence of the second paragraph of note 14 at page 208 (the last line on that page), delete “(a)” after “§ 302”.
- (13) In the sixth line in the first paragraph of the first column of note 14 at page 209, delete “904” and in its place put “at 907” (thus, the cite should read: “61 S.Ct. at 907.”).
- (14) In the tenth line from the bottom in the first column of note 14 at page 209, delete “1961” and in its place put “at 1970” (thus, the cite should read: “119 S.Ct. at 1970.”).
- (15) In the second line from the top in the second column of note 14 at page 209, delete “1961” and in its place put “at 1974” (thus, the cite should read: “119 S.Ct. at 1974.”).
- (16) In note 15 at page 209, (a) in the seventh line, delete the second closed parenthesis, that is, the closed parenthesis (“)”) after “(Bankr. M.D. Fla. 1990)”; (b) in the next-to-last line, change “*Construction*” to “*Constr.*” and “*Industries*” to “*Indus.*”; and (c) add a second closed parenthesis in the last line after “(Bankr. E.D. Va. 1980)” (thus, the cite should read: “(citing *In re Murray Indus., Inc.*, 119 B.R. 820, 828 (Bankr. M.D. Fla. 1990); *In re Vecco Constr. Indus., Inc.*, 4 B.R. 407, 409 (Bankr. E.D. Va. 1980)).”.
- (17) In the tenth line from the bottom in the text of the second column at page 210, change “check list” to the single word “checklist”.
- (18) In the fourth line of note 20 at page 211, add “*Corp.*” after “*Inv.*” and before “,” and add “*Constr. Indus.*” after “*Vecco*” and before “,” (thus, the cite should read “*In re Gulfco Inv. Corp.*, 593 F.2d at 929; *In re: Vecco Constr. Indus.*, 4 B.R. at 410.”).
- (19) In the fourteenth line of the paragraph in the first column at page 212, add a “,” after “*Risk*” and before “*and*”.

By the Court,

/s/ Thomas L. Ambro, Circuit Judge

Dated: October 12, 2005

nmb/cc: All Counsel of Record